

Chapter 59

Gardeners

§ 59-1 Definitions.

As used in this chapter, the following words and phrases shall have the following meaning:

GARDENER

Includes any person who engages in the tending, maintaining, managing, trimming, removing, creating or laying out of lawns, gardens, flower beds, shrubbery, trees or landscaping of every nature and description on other than his own property.

PERSON

Includes any individual, firm, partnership or corporation.

PRIVATE PROPERTY

Includes all real property, improved or unimproved, owned by any municipal corporation, corporation, person, partnership, firm, association or otherwise and which is not included in the definitions of "public highway" and "public place" in this section.

PUBLIC HIGHWAY/VILLAGE STREET

Includes any street open to the public for its full width from property line to property line, including the sidewalk area, whether or not installed.

PUBLIC PLACE

Includes any real property available to or open to use by all or a majority of the property owners or residents of the Village of Tuxedo Park.

§ 59-2 License required.

It shall be unlawful for any person to perform as a gardener in the territorial limits of the Village of Tuxedo Park unless he shall have first obtained and shall have then in force a gardener's license as hereinafter provided.

§ 59-3 Application for license; issuance; scope.

- A. Every person who desires to perform as a gardener in the Village of Tuxedo Park may apply to the Village Clerk for a license on forms to be furnished by the Village Clerk. Such license may be granted by the Village Clerk upon payment of the fees as provided for in § 59-5 hereof. No application for a license shall be denied until after a hearing by the Board of Trustees, held on due notice to the applicant, at which hearing the applicant shall be entitled to be heard with respect to its qualifications and the grounds of its application. The Board's determination shall be to either direct the Village Clerk to issue the license or deny the license, in which case the grounds for such denial by the Board shall be included in the decision.
- B. Such license shall cover the licensee as well as all the employees of such licensee.
- C. No license shall be issued to a person if a prior license issued hereunder to such person or to a firm, partnership or corporation of which such person was a principal was revoked, except

upon good cause shown by such person at a hearing before the Board of Trustees, when requested by such person.

D. Elementary, high school students and caretakers residing on property shall be exempt from the provisions of this section.

E. An application for a license shall include:

- (1) The name and business address of the applicant.
- (2) If the applicant is a corporation, the name, age and residence address of each officer and director.
- (3) If the applicant is a limited liability company, the name and residence address of each member.
- (4) If the applicant is a natural person, his or her age and residence address.
- (5) The applicant's place of business for the past five years.
- (6) The license numbers, vehicle identification numbers and state of registration of each vehicle to be used in providing the service. If a licensee acquires a new vehicle during the term of a license, the licensee shall provide the Village Clerk with the vehicle information prior to using such vehicle for landscaping services in the Village.
- (7) The name, address and day and nighttime phone numbers of the person or persons, within the County of Orange, who shall be responsible to the Village for compliance with the requirements of this chapter as regards the applicant's performance of gardening or landscaping services within the Village of Tuxedo Park.
- (8) The name and address of an agent who shall be a natural person and who shall reside or have a place of business in the County of Orange and who shall be authorized and shall agree by verified statement to accept notices, summonses or appearance tickets issued by the Village Board or its designated employee or officer with respect to violations by the permittee of any Village law or ordinance or any rules or regulations thereunder. Any notice, summons or appearance ticket shall be deemed to have been duly and legally served upon the permittee when served personally upon or sent by registered or certified mail, return receipt requested, to the agent designated herein.

§ 59-4 Duration of license.

A gardener's license shall be issued as of the date of granting of the same and shall expire on the last day of December of the same year, unless the same is sooner revoked, as herein provided.

§ 59-5 License fees.

The license fee and license renewal fee shall be set from time to time by resolution of the Board of Trustees.

§ 59-6 Suspension of license.

A. The Village Board, after a hearing, upon at least seven (7) days' notice to the licensee, at which hearing the licensee shall be given an opportunity to be heard, may suspend or revoke any permit issued, in its discretion, for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for the license.
 - (2) The violation of any provision of this chapter or any of the terms or conditions imposed upon the granting of a license.
 - (3) Conducting of applicant's business, enterprise or activity in an unlawful manner or in such a way as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
 - (4) Any transfer or assignment of the license to any person, firm or corporation.
 - (5) Other good cause.
- B. Upon the suspension or revocation of a license, it shall be unlawful for the applicant to conduct business in the Village of Tuxedo Park until a new license is issued upon appropriate application.
- C. Notice of revocation or suspension of a permit shall be given in writing, setting forth specifically the grounds therefore.

§ 59-7 Regulations.

The following regulations shall be observed by all licensees and their employees:

- A. No licensee or employee of a licensee shall do or perform or cause, suffer or permit any of the following acts:
- (1) Operate any power or manual lawn mower or other power equipment earlier than 8:00 a.m. nor later than 6:00 p.m. on weekdays or earlier than 9:00 a.m. nor later than 6:00 p.m. on Saturdays or legal holidays or at any time on Sundays; provided, however, that such equipment may be operated between the hours of 9:00 a.m. and 6:00 p.m. on Sundays and legal holidays if not more than one such piece of equipment is in use at any one time and such use is by a person who resides on the property where the equipment is being operated. This subsection shall not preclude the operation at any time of such equipment as may reasonably be required in case of emergency conditions where the emergency reason is provided to the Village Building Department and approved as an emergency by the Building Department in writing.
 - (2) Place or cause to be placed any garbage, refuse, cuttings, leaves, wood or other materials upon any public highway or public property, except at locations and in a manner designated for such placement. All lawn cuttings, leaves and debris accumulated from real property located in the Village of Tuxedo Park must be removed by the permittee and disposed of at the permittee's own cost.
 - (3) Scatter or cause to be scattered any garbage, refuse, cuttings, leaves or other waste materials from the custody of such persons onto any public highway, public place or private property.

- (4) Park a commercial vehicle on a Village Street.
 - (5) Use any chemicals designated by the Village as not permitted, in accordance with Village Code §65-8.
 - (6) Violate the Village Code, including, but not limited to, sections 100-14, 65-6(E), and 70-6, and any other provision of the Village Code applicable to the work performed by the licensee.
- B. The gardener's license shall be maintained by the licensee or his designee and displayed on a vehicle located at the work site.

§ 59-8 Renewal.

Beginning at any time during the month of December of each current year, the holder of a then valid current and unsuspended license may apply for the renewal and reissue of such license. No renewal or reissue of license will be made if at the time of application therefor the said license is under a suspension, except upon good cause shown by such licensee after a hearing before the Board of Trustees.

§ 59-9 License Not Transferrable

No license issued under the provisions of this chapter shall be transferred or assigned to any person or used by any person other than the licensee to whom it was issued nor shall such license be used for any vehicles other than the vehicles stated in the application.

§ 59-10. Records and Reports

- A. The Village Clerk shall issue and receive applications and issue licenses and receipts.
- B. The Village Clerk shall keep a record of all licenses issued or withheld pursuant hereto and shall keep all other records necessary or appropriate thereto.
- C. The Village Clerk shall submit a report from time to time to the Village Board enumerating the applications received and stating the action taken thereon.

§ 59-11. Penalties

Any person committing an offense against any provision of this chapter or any rule or regulation adopted pursuant to this chapter or any restriction or condition contained in a license issued pursuant to this chapter or placing any lawn cuttings, leaves and debris on a public highway or public property in a location or manner not permitted by this chapter shall be guilty of an offense of this chapter. Such offense shall be punishable as provided in the general penalty provisions of the Code of the Village of Tuxedo Park.